

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

JAMES MATTHEW ROBINSON,

*Plaintiff,*

v.

JUSTIN CARAWAY,*et al.*,

*Defendants.*

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Case No. 2:20-cv-00111-JRG-RSP

**ORDER**


Defendants Calvin Boyd, Burnet County, Texas, Justin Caraway, Mike Cummings, Hamilton County, Texas, Matt Kimbler, and Ray Miller (“Defendants”) previously filed a Motion to Dismiss Plaintiff’s Third Amended Complaint (Dkt. No. 24.) Magistrate Judge Payne entered a Report and Recommendation (Dkt. No. 30), superseded by a Supplemental Report and Recommendation (Dkt. No. 37), recommending grant in part of Defendant’s Motion to Dismiss Plaintiff’s Third Amended Complaint. James Matthew Robinson has now filed Objections to the Supplemental Report and Recommendation (Dkt. No. 41), with Defendants filing a Response (Dkt. No. 42.)

After conducting a *de novo* review of the briefing on the Motion to Dismiss Plaintiff’s Third Amended Complaint, the Supplemental Report and Recommendation, and the briefing on James Matthew Robinson’s Objections, the Court agrees with the reasoning provided within the Supplemental Report and Recommendation and concludes that the Objections fail to show that the Supplemental Report and Recommendation was erroneous. Consequently, the Court **OVERRULES** James Matthew Robinson’s Objections and **ADOPTS** the Report and

Recommendation, and **ORDERS** that the Motion to Dismiss Plaintiff's Third Amended Complaint (Dkt. No. 24) is **GRANTED-IN-PART and DENIED-IN-PART** as follows:

- 1) The motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(3) or alternatively to transfer pursuant to 28 U.S.C. § 1404(a) is **DENIED**.
- 2) The motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) based on the statute of limitations is **DENIED**.
- 3) The motion to dismiss Sheriff Caraway and Lt. Miller is **DENIED** as they are not entitled to qualified immunity.
- 4) The motion to dismiss as to Rathburn, Boyd, Cummings, and Kimbler is **GRANTED** as they are entitled to qualified immunity.
- 5) The motion to dismiss is **DENIED** as to Hamilton County and **GRANTED** as to Burnet County.

**So ORDERED and SIGNED this 17th day of October, 2023.**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE